

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
) **MD Docket No. 16-166**
Assessment and Collection of)
Regulatory Fees for Fiscal Year 2016)

Comments of

NTCA–THE RURAL BROADBAND ASSOCIATION

TO THE COMMISSION:

NTCA–The Rural Broadband Association (NTCA)¹ hereby submits comments in the above-captioned proceeding. For the reasons set forth below, NTCA supports updated full time employee (FTE) calculations in order to inform a more equitable distribution of regulatory fee responsibilities across the spectrum of industry participants.

Section 159 of the Communications Act of 1943, as amended,² directs the Commission to collect regulatory fees.³ The fees paid by regulated entities are envisioned by the statute to reflect generally the number of Commission employees who are contemplated to address the needs of

¹ NTCA is an industry association composed of nearly 900 rural local exchange carriers (“RLECs”). While these entities were traditional rate-of-return-regulated telecommunications companies and “rural telephone companies” as defined in the Communications Act of 1934, as amended, all of NTCA’s members today provide a mix of advanced telecommunications and broadband services, and many also provide video or wireless services to the rural communities they serve.

² The Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996) (1996 Act) amended the Communications Act of 1934. Hereinafter, the Communications Act of 1934, as amended by the 1996 Act, will be referred to as “the Act,” and citations to the Act will be to the Act as it is codified in the U.S. Code.

³ *See*, 47 U.S.C. 159(b)(1)(A).

each class of entities. This may be achieved by basing regulatory fee allocations on the number of FTEs in each Bureau such that, for example, wireless firms would pay a share based upon the number of FTEs in the Wireless Telecommunications Bureau (WTB) while wireline providers would pay a share based upon the number of FTEs in the Wireline Competition Bureau (WCB). Although this approach may have captured logical and equitable outcomes in the past, recent years have blurred lines among sectors. As a result, many proceedings undertaken within the WCB affect entities that would otherwise be predominantly affected by WTB proceedings. This leads to a result in which firms that are governed generally by the WCB shoulder regulatory fee burdens whose benefits accrue in part to WTB entities, as well.

The Act recognized that some flexibility may be necessary as the Commission approaches regulatory fees, and directed that they shall be adjusted in order to accommodate “factors that are reasonably related to the benefits provided to the payor of the fee . . . and other factors that the Commission determines are necessary in the public interest.”⁴ The statute also permits the Commission to “add, delete, or reclassify services” in order to account for “additions, deletions or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.”⁵

The Commission previously sought comment on proposals of ITTA that were intended to better align regulatory fee responsibilities with the actual beneficiaries. These proposals included gathering wireless voice and wireline services into a common interstate telecommunications services providers (ITSP) category, or reassigning WCB FTEs to other fee categories in a

⁴ 47 U.S.C. § 159(a)(1), (b)(1)(A).

⁵ 47 U.S.C. § 159(b)(3).

manner that would reflect the allocation of docket impacts upon various sectors.⁶ The Commission indicated its reluctance to adopt certain of the ITTA proposals, explaining that it could not identify a “clear case” to change FTE classifications.⁷ The Commission also demurred from creating a CMRS category within ITSP that would have recognized wireless industry inclusion in proceedings undertaken primarily by the WCB.⁸ The Commission, however, asks whether it would be “appropriate to allocate some proportion of the direct FTEs that devote time to universal service and/or numbering issues as additional indirect FTEs.”⁹

NTCA supports fair allocation of regulatory fee responsibility among expense categories. Updating the ITSP category to include wireless revenues would be a prime, rational step. Absent that action, the Commission’s proposal to allocate proportions of WTB FTEs to WCB proceeding costs would be a welcome amendment. FTEs in the WTB that are dedicated to universal service issues, including contributions, schools and libraries, and healthcare, should be reallocated as indirect FTEs. In this model, the imputed costs of WCB proceedings that incorporate “billable hours” of WTB personnel would be allocated among the two Bureaus proportional to the respective staff involvement, and the implied benefit to wireless providers as demonstrated by WTB “hours in” would be reflected in regulatory fee charge adjustments among the industry sectors. Similarly, staff from any Bureau who are engaged in these issues should be reallocated as indirect FTEs in order to ensure that the costs of the Commission’s activities are

⁶ *See, Assessment and Collection of Regulatory Fees for Fiscal Year 2016: Notice of Proposed Rulemaking*, Docket No. 16-166, at para.17 (2016) (NPRM).

⁷ NPRM at para. 18.

⁸ *Id.*

⁹ NPRM at para. 19.

“reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”¹⁰ Although these measures would have been equitable in the past, their suitability is even more pronounced as Lifeline focuses increasingly on recruitment to wireless services. This evolution, in fact, suggests the need for an automatically-occurring annual update to allocation of FTE data that would reflect each annual cycle’s impact on various Bureaus and their respective staff.

To be sure, the bulk of inequities could be addressed by gathering CMRS and wireline services into a common ITSP category. This would produce a relatively accurate basis from which the impact of the Commission’s activity on industry could be gauged. Absent this innovation, Bureau Chiefs, based upon staff assignments and reports, could generate the information necessary to enable the Commission to calibrate adjusted FTE allocations on an annual basis. This would be a reasonable step toward restoring sensibility to the collection of regulatory fees.

WHEREFORE the reasons stated above, NTCA supports Commission efforts to implement updated categories and calculations to more equitably allocate regulatory fee responsibilities among the industry.

Respectfully submitted,



By:
/s/ Joshua Seidemann
Joshua Seidemann
Vice President of Policy
4121 Wilson Boulevard, Suite 1000
Arlington, VA 22203
jseidemann@ntca@ntca.org
703-351-2000 (Tel)

¹⁰ See, 47 U.S.C. § 159(b)(1)(A).